

REMARKS/ARGUMENTS

This is meant to be a complete response to the Office Action mailed November 12, 2004. In the Office Action, the Examiner rejected Applicant's claims 1 and 2 under 35 U.S.C. § 102 as being anticipated by Grether (US 6,502,368). The Examiner also rejected Applicant's claims 3-6 under 35 U.S.C. § 103 as being unpatentable over Grether (U.S. 6,502,368).

Applicant's Response to the 35 U.S.C. §102 Rejection of Claims 1 and 2 Over Grether (U.S. 6,502,368)

In the Office Action, the Examiner rejected Applicant's claims 1 and 2 under 35 U.S.C. § 102 as being anticipated by Grether. In support of the rejection, the Examiner stated:

In regard to claim 1, Grether discloses the invention as claimed including a frame comprised of tray extension 23, with an with a well formed inside, platform 19 connected to the frame, with an opening, cover forming and banding device 17, which can receive a flower pot 16, cover material 12 and placing a band 39 around the cover material after it has been received around the flower pot (see Figs. 1-3,6-8,C3,L16 - C4,L37 and C5,L50 - C6,L22)

Applicant respectfully traverses the rejection as applicable to claim 1 and 2, as amended, for the reasons stated herein below.

The present invention, as recited in amended claim 1, and thus claim 2 which depends thereof of the draft of the application. Claim 1 has been amended to recite that the apparatus for forming and securing a decorative

cover about an outer peripheral surface of a flower pot includes, a cover forming and banding assembly having a flower pot receiving opening sized and configured to receive at least a portion of the sheet of cover forming material and at least a lower portion of the flower pot, the cover forming and banding assembly supported within the well of the frame assembly such that the flower pot receiving opening in the cover forming and banding assembly is aligned with the opening in the platform, the cover forming and banding assembly having a plurality of pleat forming members, each of the pleat forming members having a band-engaging portion for supporting at least one band thereon such that while forming a decorative cover about an outer peripheral surface of the flower pot by positioning the flower pot and at least a portion of the sheet of cover forming material within the pot receiving opening of the cover forming and banding assembly, the decorative cover so formed is secured about the outer peripheral surface of the flower pot by removing the at least one band from the band-engaging portion of the pleat forming members of the cover forming and banding assembly and positioning the at least one band about the decorative cover.

Claim 2, which depends from claim 1 has been amended to further define the cover forming and banding assembly comprising a lower portion and an upper portion. The upper portion is further characterized as defining the plurality of spatially disposed pleat forming members wherein the plurality of

spatially disposed pleat forming members are disposed about the opening in the lower body portion of the cover forming and banding assembly so as to extend in an upwardly direction therefrom.

It is respectfully submitted that Grether does not disclose, teach, or even suggest an apparatus for forming and securing a decorative cover about an outer peripheral surface of a flower pot wherein the cover forming and banding assembly is provided with a plurality of pleat forming members, each of which has a band-engaging portion thereon for supporting at least one band as recited in Applicant's claim 1 as amended. Further, the Grether reference does not disclose, teach, or even suggest the cover forming and banding assembly having an upper portion and lower portion as recited in Applicant's claim 2, a claim which depends from claim 1. While it may be true that Grether discloses a cover forming apparatus and method for forming and securing a sheet of material about a flower pot having an outer peripheral surface, the former, which has a bowl shaped configuration including an inwardly tapered portion is provided with finger openings for allowing the band to be removed from a tin portion disposed below the bulb and stretched as it is moved upwardly over the side wall of the former and on to the upper inwardly tapered portion of the outer surface of the former. Thus, the stretched loop is caused to expand as the stretched loop is moved up the side wall of the former. Upon the expanded stretched loop being moved onto the upper inwardly tapered portion of the

outer surface of the former, the stretched loop is caused to contact and thereby slide off the upper end of the former and into engagement with a sheet of material, thereby securing the sheet of material about the flower pot to provide a covered pot.

It is respectfully submitted that the cover forming apparatus disclosed in Grether is completely different both in structure and in function and the apparatus for forming and securing a decorative cover about an outer peripheral surface of a flower pot is recited in Applicant's claim 1 and 2. That is, there is absolutely no teaching or even suggestion providing an apparatus which includes a cover forming and banding assembly wherein the cover forming and banding assembly has a plurality of pleat forming members, and wherein each of the pleat forming members has a band-engaging portion for supporting at least one band thereon. That is, the Grether patent teaches a cover forming apparatus which includes a base, a stem portion protruding upwardly from the base and adapted to hold a plurality of stretched loops, and a former. The former has a bow shaped configuration having an outer surface wherein an upward portion is inwardly tapered to assist in sliding movement of the stretched loops there alone. The openings in the former are for permitting one to grasp the stretched loop for movement along the exterior surface of the former, and do not assist or cooperate in the configuration of the cover formed therein. This is in contrast to Applicant's claimed invented concept of providing

an apparatus for forming and securing a decorative cover about the outer peripheral surface of the flower pot which includes, in addition to a frame assembly and a platform, a cover forming and banding assembly wherein the cover forming and banding assembly is provided with a plurality of pleat forming members and each of the pleat forming members is provided with a band-engaging portion for supporting at least one band thereon such that, upon forming the decorative cover about an outer peripheral surface of the flower pot, a band can be secured about the decorative cover by removing the band from the band-engaging portion of the pleat forming members of the cover forming and banding assembly. Thus, the invented concept recited in Applicant's claim 1, and both claim 2 which depends therefrom (as amended), do not recite or require the sliding of a stretched loop along the exterior surface of the cover forming and banding assembly of the apparatus. In addition, as recited in claim 2 the plurality of spatially disposed pleat forming members are disposed about the opening in the lower portion of the cover forming and banding assembly and extend in an upwardly direction therefrom. Further, the plurality of spatially disposed pleat forming members cooperate with the opening in the lower body portion of the cover forming and banding assembly to define the flower pot receiving opening in the cover forming and banding assembly.

In view of the above, it is respectively requested that the Examiner withdraw the rejection of claims 1 and 2 under 35 U.S.C. § 102 as same applies to the claims now pending in the application and pass such claims to issue.

Applicant's Response to the 35 U.S.C. §103 Rejection of
Claims 3-6 As Unpatentable Over Grether (U.S. 6,502,368)

In the office action dated November 12, 2004, the Examiner rejected Applicant's claims 3-6 under 35 U.S.C. § 103(a) as being unpatentable over Grether. In support of the rejection the Examiner stated:

In regard to claim 3, Grether discloses the invention substantially as claimed including a plate 32 for holding the forming device 17 (see Fig. 1 and 2). What Grether does not disclose is the use of a plurality of legs to secure the forming device. However, the examiner takes Official Notice that it is old and well known in the art to provide multiple legs in lieu of a platform or plate for the purpose of stabilizing an object. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention Grether with a support comprised of multiple legs instead of a plate for the purpose of stabilizing an object.

In regard to claim 4, Grether discloses the invention substantially as claimed including a platform 19, with an opening an opening formed by sidewall, which allows access to the forming device 17 (see Fig.1).

In regard to claim 5, Grether discloses the invention substantially as claimed including a pleat forming member 31 with a band-engaging portion in the form of outer surface 34 (see Fig. 7).

In regard to claim 6, Grether discloses the invention substantially as claimed including a recessed area generally by reference number 48, which holds a plurality of bands 39 (see Fig. 8).

Applicant respectfully traverses the before-stated rejection. For the reasons set forth above, it is respectfully submitted that Grether does not disclose, teach, or even suggest the apparatus for forming and securing a decorative cover about an outer peripheral surface of a flower pot as recited in Applicant's claims 1 and 2, and thus claims 3-6 which depend therefrom either directly or indirectly via intermediate claims. The comments concerning the teaching of the Grether reference will not be reiterated herein, but such are deemed relevant to the Examiner's rejection of claims 3-6 and are therefore expressly incorporated herein by reference. That is, there is absolutely no teaching in the Grether reference to provide an apparatus as recited in Applicant's claims 1 and 2, and thus claims 3-6 which depend therefrom wherein the apparatus includes a cover forming and banding assembly having a pot receiving opening sized and configured to receive at least a portion of the sheet of cover forming material and at least a lower portion of the flower pot wherein the cover forming and banding assembly are supported within a well of a frame assembly such that the flower pot receiving opening in the cover forming and and banding assembly is aligned with the opening in the platform. The cover forming and banding assembly is further defined as having a plurality of pleat forming members,

each of which have a band-engaging portion for supporting at least one band thereon. Such that, upon forming the decorative cover about an outer peripheral surface of a flower pot, the decorative cover so formed can be secured about the outer peripheral surface of the flower pot by removing at least one band from the band-engaging portion of the pleat forming members of the cover forming and banding assembly and positioning same about the decorative cover. As previously stated, Grether discloses a cover forming apparatus including a vase, a stem protruding upwardly from the base and adapted to store a plurality of stretched loops and a former. The former has a bowl-shaped configuration having a sidewall with an upwardly inwardly tapered portion. The lower end of the former is detachably connected to the upper end of the stem such that at least one of the stretched loops disposed about the stem is removable from a stem and disposable on the upwardly inwardly tapered portion of the outer surface of the former in an expanded condition by an operator such that the stretched loop contacts and slides off the upper end of the former end to engagement with a sheet of material thereby securing the sheet of material about the flower pot. Thus, it becomes apparent that the apparatus disclosed in Grether does not teach, disclose or even suggest the apparatus for forming and securing a decorative cover about an outer peripheral surface of a flower pot as recited in each of Applicant's claims 3-6. Therefore, it is respectively

requested that the Examiner withdraw the rejection of claims 3-6 presented herein and pass such claims to issue. Such is respectively requested.

SUBMISSION of IDS

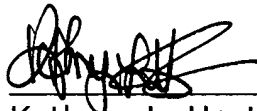
Enclosed herewith is an IDS setting forth patents which Applicant believes are pertinent to the inventive concept recited in the pending claims of the subject application. In addition, Applicant has authorized payment of any fees due as a result of filing the IDS at Extension of Time.

CONCLUSION

This is meant to be a complete response to the Office Action mailed November 12, 2004. Applicant respectfully submits that each and every rejection of the claims, as now pending, has been overcome, and that such claims are now in a condition for allowance. Favorable action is respectfully solicited.

Should the Examiner have any questions regarding this Amendment, or the remarks contained herein, Applicant's agent would welcome the opportunity to discuss such matters with the Examiner.

Respectfully submitted,



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